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Article

The Growing Risk of Sexual Misconduct in Healthcare

The protection of children and vulnerable adults is the primary responsibility of those entrusted in their care. But as the risk of sexual misconduct rises and the insurance landscape changes, are healthcare providers prepared and equipped to safeguard those who might need protecting the most and respond should the worst happen?

The heightened risk

Healthcare involves a high level of proximity, vulnerability, and physical interaction, which can be exploited to perpetuate abuse. This can be compounded by the high level of trust and confidence that is often placed in healthcare professionals.

Further, given the volume of patients an individual healthcare provider can interact with, and the fact that many staff are credentialled for several facilities, the potential scale of abuse and the number of victims can be very high. And while hospitals are often the focus of discussions around sexual misconduct for healthcare, sexual abuse can occur in any setting, including long term care, clinics and transportation providers.

Many of the largest recent sexual misconduct settlements and awards have related to the provision of healthcare.

- In 2024, a behavioural health provider had almost US$900M awarded against it1
- In November, an Illinois hospital system announced it had settled sexual abuse claims involving an OB/GYN doctor for US$453M2.
- In previous years, the high-profile cases involving George Tyndall, James Heaps and Larry Nassar were resolved for a combined total of around US$2.7BN. 3
- In January of this year, in another OB-GYN case involving Robert Hadden and several hospital defendants, a further 80 plaintiffs were added to the litigation, bringing the total to almost 5504.

It is therefore essential that healthcare facilities have robust and effective policies and procedures in place to mitigate the risk of sexual abuse occurring. This can involve chaperone policies for vulnerable patient categories and training for staff so that they can spot and report any signs or concerns of abuse. It is equally important that they have systems in place should an event occur or an accusation is made to effectively support all those impacted.

Intensifying debate & speciality support

In recent years, the risk of Sexual Misconduct Liability ("SML") has become a growing concern for healthcare providers. However, at the same time, Professional Liability and General Liability insurers are increasingly debating whether they can, or should, maintain coverage for this sector. At the end of last year, for the first time, we started to see debates involving medical professional liability (re)insurers (including captives), questioning whether this exposure should continue to be underwritten by them.

One commentary piece asked the question "Is it even possible to underwrite [SML] exposure? Are we approaching the point at which [SML] will be completely excluded from medical professional liability programs?". 5

We expect this debate to intensify and for medical liability insurers to reduce their coverage for SML incidents, or, indeed, remove it altogether. We believe this to also be the case with General Liability insurers.

As the frequency and severity of SML claims increases, providers need to consider whether their existing insurance coverage (including limits) is sufficient in helping them mitigate this risk and explore the availability and security of standalone SML insurance coverage.

Looking forward

Sadly, the risk of sexual misconduct is prevalent. And as the insurance landscape evolves, many healthcare providers find themselves unprepared and increasingly exposed.

Providers should therefore begin exploring the options available for standalone SML coverage with their brokers and look to partner with insurers that have longstanding experience of this class of business, both from an underwriting and claims perspective, as well as with providing access to state of the art prevention and response resources and expertise.

By doing so, healthcare providers can be more secure in the knowledge that they protecting those who depend on them and creating a safer environment, while also building resilience and ensuring the long term viability of their own institution.

Find out more about **Safeguard** here.

Beazley Safeguard, Beazley's market-leading standalone SML policy, was designed with this need in mind. The policy offers risk management tools, pre-claim coverage for circumstances, and liability insurance. With the Beazley Safeguard policy, we strive to help organizations create safe environments within their organization.

1- UHS forced to pay more damages related to child sexual abuse allegations at behavioral care facilities | Healthcare Dive

2- Endeavor Health is spending up to $453 million to settle patients’ claims that a former doctor sexually abused them

3- https://www.theguardian.com/us-news/2021/mar/26/usc-settlement-gynecologist-sexual-abuse-university-southern-california)(https://www.washingtonpost.com/education/2022/05/24/james-heaps-ucla-abuse-settlement/) (https://www.cbc.ca/sports/olympics/summer/gymnastics/gymnastics-larry-nassar-settlement-fbi-1.7182242)

4- https://financialpost.com/pmn/business-wire-news-releases-pmn/549-patients-file-lawsuits-against-columbia-university-and-ob-gyn-robert-hadden-citing-decades-long-cover-up

5- Sexual abuse & molestation: are we at a crossroads with respect to coverage? | Captive International

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